

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-6183**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TIMOTHY GERALD BIDDIX,

Defendant - Appellant.

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Appeal from the United States District Court for the Western  
District of North Carolina, at Asheville. Lacy H. Thornburg,  
District Judge. (CR-99-52; CA-03-217-1)

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Submitted: June 10, 2004

Decided: June 17, 2004

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Before WILLIAMS and TRAXLER, Circuit Judges, and HAMILTON, Senior  
Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Sandra Baughn Jelovsek, Johnson City, Tennessee, for Appellant.  
Thomas Richard Ascik, OFFICE OF THE UNITED STATES ATTORNEY,  
Asheville, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Timothy Gerald Biddix seeks to appeal the district court's order denying relief on his motion filed under 28 U.S.C. § 2255 (2000). The order is appealable only if a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Biddix has not made the requisite showing. Accordingly, we deny leave to proceed in forma pauperis, deny Biddix's motion for a certificate of appealability, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED